

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CLAY CALDWELL,)	
)	
Plaintiff,)	
)	
v.)	2:07-cv-727
)	
JEFFREY A. BEARD, Secretary of Corrections,)	
LOUIS FOLINO, Superintendent, SCI Greene,)	
WALLACE DITTSWORTH, Food Service)	
Manager, SCI Greene, MARK DICARLO, Asst.)	
Food Service Manager, SCI Greene and LINDA)	
VARNER, RH, IT Medical Director, SCI Greene,)	
Defendants.)	

ORDER OF COURT

AND NOW, this 23rd day of July, 2008, the Plaintiff, Clay Caldwell, having filed the above captioned action, and after a Report and Recommendation was filed by the United States Magistrate Judge which granted the parties until August 1, 2008 to file written objections thereto, and Plaintiff having filed objections on July 18, 2008 which are found to be without merit, and upon independent review of the record, with full consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

It is hereby **ORDERED** that the Defendants' Motion to Dismiss is **GRANTED** and

It is further **ORDERED** that Plaintiff's Complaint is **DISMISSED** for failure to state a claim upon which relief can be granted.

It is further **ORDERED** that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the parties desire to appeal from this Order, they must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

BY THE COURT:

s/ Terrence F. McVerry

United States District Court Judge

cc: CLAY CALDWELL
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Scott A. Bradley, Esquire
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Honorable Amy Reynolds Hay
United State Magistrate Judge